(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. Could you identify it by whether it is a United States Army scale?

A. I could identify it, yes.

Q. Now, what was it? Was it a United States Army scale?

A. It was a standard scale in use by the trade.

Q. Is it similar to the scales that you have seen from time [506] to time in Nye & Nissen.

A. No.

Q. Is it similar to the scales that were placed in the booth that they erected for the Army inspectors in their plant?

A. We took our own scale.

Q. You took your own scale? A. Yes.

Q. And was it the type of scale that you took down there?

A. Yes, it was in use at the time.

Q. Now, this scale we have been trying to get described here, were you weighing a dozen eggs or a single egg with it?

A. The scale was so calibrated that it was weighing one egg, and that would be the minimum for the 12 eggs.

Q. When you calibrated that scale to weigh one egg, give me the figure that you calibrated it for when you were weighing these Pee-wee eggs?

A. It was set down as low as 16 ounces per dozen.

Q. What was that figure? What was the figure on the scale?

A. 16 ounces per dozen.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. There is no such thing on the scale as 16 ounces per dozen, is there, Colonel?

Mr. Pratt: I object to that.

A. Yes, there are directions on the back of the scale.

Mr. Faulkner: Q. There are directions on the back of the scale of what? When you calibrated the scale and fixed it to weigh your small eggs, where did you put the counter balance that would weight against the egg? Would your put it at 4 pounds, [507] one ounce, 7 ounces? Where would you put that mark?

A. I do not remember without having the scale to refer to.

Q. When you put the egg on, if it does not break the scale, that means it does not weigh the amount that you calibrated it for, isn't that right?

A. Yes.

Q. Did you ever hear of the United States Standard of Weight Classes put out by the United States Department of Agriculture, Food Distribution? Did you ever hear of that organization.

A. Yes.

Q. This was a United States Department of Agriculture inspected order, wasn't it.

A. It was stamped by the U. S. Department of Agriculture.

Q. I will ask you to look at that and ask you if you have ever seen that regulation before?

A. Yes.

Q. You have? A. Yes.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. Did you know of its existence in April 1944?

A. Yes.

Mr. Faulkner: I offer it in evidence, your Honor.

The Court: It may be admitted and marked.

Mr. Hippeli: It is already in evidence as U. S. Exhibit No. 24, unless you want to put another one in.

Mr. Faulkner: There is no use duplicating it. You say it is No. 24. Have you got it, Mr. Welsh?

Q. Now, it is true, is it not, Colonel, that a large egg, the minimum weight for an individual egg is 23 ounces, isn't that right?

A. A minimum weight. [508]

Q. That the minimum weight for a medium egg is 20 ounces? A. Yes.

Q. And the minimum weight for a small egg is 15 ounces? A. Yes.

Q. Now, you were familiar with that at the time you were making the inspection, is that right?

A. Yes.

Q. Now, did you weigh the eggs on the Henry White? A. Yes.

Q. You testified on your direct examination that you did not weigh the eggs on the Henry White but that somebody else did. Which is correct?

Mr. Pratt: I object to that as being a misquotation of the record. There was another boat whose eggs he spoke of, but not the Henry White.

Mr. Faulkner: I submit the objection, your Honor.

(Testimony of Lt. Col. Pearl Hugh Hand.)

The Court: Read the question.

(Question read.)

The Court: Q. Do you recall whether you weighed the eggs?

A. In the normal process of handling and grading they were weighed, scaled by the use of the egg scale.

Mr. Faulkner: Q. How many eggs did you scale on the Henry White?

A. All those I thought might be under weight.

Q. Did you at any place on your memorandum made at the time or during this on one of the last occasions, so far as dates are concerned, in which you were working in conjunction with the FBI on the ships referred to in your direct examination, did you indicate any place the weight of any eggs?

A. I indicated there [509] were nine cases of Pee-wee.

Q. I know that. You wrote that. Nine cases of the Pee-wee. Did you indicate the weight of any eggs?

A. The rest of them made the weight. They wouldn't be entered in the——

Q. Colonel, can't you answer a simple question? Did you indicate on that paper any weights of any eggs?

A. Yes, nine cases of Pee-wees.

Q. What is the weight? What did they weigh, the nine cases of Pee-wees? What did they weigh? What is the weight?

A. They are under size.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. Is the only weighing you did the weighing you just described on this scale that weighs one egg at a time? A. Yes.

Q. And if you set that scale at the figure that you fixed, the eggs could all have been small eggs, instead of Pee-wees, isn't that correct?

A. No.

Q. If you set the weight at the figure you fixed, if an egg did not break it, you would reject it, wouldn't you? You would classify it as a step lower in its weight qualifications, wouldn't you?

A. No.

Q. If you put the egg scale so that it weighs large eggs, if the egg does not break the scale it does not pass as a Large, does it? A. No.

Q. If you set the scale at the weight that is required for a Medium egg and it does not break the scale it is not a Medium, is it? A. No. [510]

Q. And if you set the scale at the weight that you think applies to a Small egg, if the egg does not break the scale it is not a Small, is it?

A. No.

Q. Now, a Small is 15 ounces, isn't it?

A. Minimum weight for one dozen.

Q. What?

A. Minimum weight for one dozen eggs, Small.

Q. Yes, but you set your scale for a minimum weight of 16 to 18, isn't that correct?

A. On Smalls, yes.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. Why did you do that? That was too high, wasn't it? Wasn't it? A. No.

Q. If you set your scale at 16 ounces as a basis for determining the weight of a small egg, that is an ounce too high, isn't it?

A. 15 is a minimum weight for any one dozen eggs.

Q. I say if you set your scale at 16 ounces in order to determine whether an egg is a Small egg or not, you have fixed the scale at too high a weight, haven't you? A. No.

Q. If you set it at 18 ounces you have set it at too high a weight, haven't you?

A. For Small eggs?

Q. Yes.

A. For checking the minimum weight of any dozen eggs, yes, but not on case lots.

Q. If you were checking the weight of Small eggs——

Mr. Hippeli: Let him answer that, your Honor. He has not completed his answer.

Mr. Faulkner: Q. Haven't you completed your answer? A. No.

The Court: Read the question and answer. [511]

(Record read.)

Mr. Faulkner: Q. Go right ahead, Colonel.

A. In other words, if you had 30 dozen eggs weighing a minimum of 15 ounces per dozen, they would not make the prescribed case weight of 34 pounds.

Q. I was asking you about 18 ounces, Colonel.

(Testimony of Lt. Col. Pearl Hugh Hand.)

I made it very clear. If you set the weight at 18 ounces per dozen, would you be setting the weight too high for the purpose of determining whether the eggs were small eggs? A. No.

Q. You would not. Now, then, where would you set it, what is the exact weight that you would set it to determine whether the eggs were Small eggs or not?

A. That would vary according to the different class of eggs graded or size of eggs found in the lot.

Q. The purpose of grading is to determine the weight of the case of eggs, isn't it?

A. You have a tolerance, yes.

Q. What is the tolerance?

A. I believe it is 3.2 per cent by weight for the Army.

Q. 3.2 per cent by weight in the Army?

A. One pound.

Q. Is there a tolerance on Small eggs?

A. By weight of the eggs.

Q. Regardless of tolerance, regardless of any of these factors, I come back, Colonel, again, and ask you what weight you would set when you were determining whether eggs would meet the requirements of so many pounds per case, 30 dozen in a case? [512] What is the weight that you set?

A. For small eggs?

Q. Yes?

A. You would normally set it at 18 ounces per dozen.

Q. You were then giving Nye & Nissen a break

(Testimony of Lt. Col. Pearl Hugh Hand.)

when you set it down at the waterfront at 16, is that it?

A. It could be adjusted to 15 if there were a predominance of Small eggs.

Q. If you were trying to determine whether these were small eggs down at the waterfront, and you normally set at 18, why didn't you set it at 18 on the waterfront?

A. I wanted to give them the benefiit of the doubt.

Q. You wanted to give them a break, is that right?

A. I was being fair as I knew how to be, yes.

Mr. Faulkner: Thank you. [513]

Mr. Faulkner: Q. Now, Colonel, in this scale that you used, did you move a little gadget along the calibrations in order to fix the weight that you were weighing those eggs?

A. There was a little balance movable on the scale.

Q. Did you move it. A. Yes.

Q. Did you set it at a figure?

A. There are little cups also that fit into the egg reciprocal on the scale.

Q. Is that your method? A. Yes.

Q. Did you move that along those calibrated numbers there to get it in balance? A. Yes.

Q. Having your attention directed to that mechanical process that your followed. I will ask you again where you set the scale when you weighed those eggs.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Mr. Pratt: I object to that as repetitious.

Mr. Faulkner: If Mr. Pratt will tell me the answer the question that is in the record I won't renew the question.

The Court: Read the question.

(Record read by the reporter.)

The Court: Overruled. Answer.

A. I don't remember.

Mr. Faulkner: Q. On the occasion of the Henry White, did you say that you put your name on any labels that appeared on any cases down there?

A. Yes.

Q. Have they been brought into court? I would ask the Government for any label that was taken off any case of eggs that was part of the shipment of the Henry White that the Colonel put [514] his initials on.

Mr. Hippeli: I don't believe we have a label from the Henry White.

Mr. Faulkner: The Colonel indicated he initialed some. What did you do with them after you initialed them?

The Court: Just a moment.

Mr. Pratt: We will find out. We are trying to find out whether there are labels in evidence or in our possession.

Mr. Hippeli: We have no labels in evidence obtained from the Henry White nor have we any labels from the Henry White. If we have them I will be glad to submit them. As I recall now, we have none.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Mr. Faulkner: Q. What did you do with the labels that you retained from the Henry White?

A. I did not retain them in my possession.

Q. At all events, you have a recollection of signing a label down there?

A. On each of the ships I took the labels and initialed them.

Q. And initialed them. Were they removed from the cases?

A. I don't recall whether they were not not.

Q. Where was the case?

A. I don't recall.

Q. Were labels on both ends of the cases on the Henry White?

A. I don't recall whether both ends were labeled, or not.

Q. Were they new, or second-hand cases?

A. On the Henry White the fiber cases were old cases. [515]

Q. How about the wooden ones?

A. I don't recall.

Q. The fiber cases, in addition to having Department of Agriculture marks on them, had some Veterinary Corps marks on, didn't they?

A. I noticed old stamps on them, yes.

Q. Sometime in 1943? A. Yes.

Q. At that time it was common for various type cases to be used and re-used, was it not, in various plants?

A. Not on export orders.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. In various plants, Colonel, it was common for them to be used—— A. Excuse me. Yes.

Q. In other words, the Army, itself, disposes of all the empty cases to various egg-producing companies, like Nye & Nissen, don't they, if you know?

A. Yes, they are collected and sold as salvage.

Q. They will bear the VC label on them, sometimes three or four on some cases, isn't that right?

A. No. They are removed at the post, camp or station.

Q. Taken off? A. Defaced.

Q. Isn't it a fact if you walked into Nye & Nissen, any egg-producing outfit in the State of California, and you glanced at those cases bought from the Army, you won't see a single one removed, they will be right there intact?

A. I wouldn't say that.

Q. Have you ever seen, say, 500 cases in a row bought from the Army without a single VC stamp removed? Did you ever see a [516] sight like that in your experience? A. Yes.

Q. Where? A. Poultry Producers.

Q. Sure; aren't they—they were defaced?

A. They were defaced.

Q. No. I mean where not a single one was defaced.

A. They were all defaced. They were all defaced.

Q. Have you ever seen them where none of them were defaced? A. No.

Q. Don't you know as a matter of fact from your experience in the Veterinary Corps that the

(Testimony of Lt. Col. Pearl Hugh Hand.)

Army makes no effort to deface those labels when they re-sell the boxes?

Mr. Pratt: I object to that as argumentative.

Mr. Faulkner: If you know.

The Court: If you know, answer.

A. Yes, they do. It is in directives.

Mr. Faulkner: Q. In the course of your direct examination you stated that the method followed by you in the inspection on the Henry White was generally followed on the other shipments, the Muir, the Pillar, and I think there is another.

Mr. Hippeli: The Royce.

Mr. Faulkner: Q. Is that right? A. Yes.

Q. Would you start here, Colonel, with the exhibit that refers to—I think it is the Cape Pillar—The Cape Pillar.

The Court: What is that you have in your hand that you are looking at?

A. This is my inspection. [517]

Q. Of what? A. Eggs on the Cape Pillar.

The Court: So the jury will follow it. Proceed.

Mr. Faulkner: Q. Further, Colonel, would you look at the exhibit number that Mr. Welsh has put on there?

Mr. Hippeli: In the back.

The Witness: 58 for Identification.

Mr. Faulkner: Q. In that shipment did those eggs grade?

The Court: What is the question?

(Question read.)

The Witness: A. Yes.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Mr. Faulkner: Pardon me? A. Yes.

Q. What did they grade?

A. Small Grade B.

Q. Small Grade B. You graded three cases, is that correct?

A. Three cases of the 35; none of the Pee-Wees were graded.

Q. The shipment involved, was it 35 or 45?

A. 45.

Q. You have put there the inspection date in your handwriting 4/24/44. A. 4/26——

Q. What? A. 4/26/44.

Q. I beg your pardon. You have marked "Inspection date 4/24/44", haven't you?

A. That was the date they were graded by the U. S. Department of Agriculture. Up here I have the date that I prepared the sheet.

Q. The date that you have here——

A. Corresponds to the date——

Q. Just a minute. Does the date, the inspection date, 4/24/44, represent the date you made that inspection? [518]

A. No.

Q. What does it represent?

A. The date they were stamped with inspection stamp, U. S. Department of Agriculture.

Q. If you look at the Henry White, is it your testimony that 5/3/44 means the day they were stamped by the Department of Agriculture?

A. No.

Q. In other words, when you put 5/3/44 in the

(Testimony of Lt.-Col. Pearl Hugh Hand.)

space for inspection date, it refers to the date you inspected——

A. In that instance, yes.

Q. In that instance, but the next instance it refers to the date somebody else inspected them, is that right? A. Could be.

Q. Which was it? A. Yes.

Q. You say "Yes." Yes what? What does 4/24/44 represent?

A. The date they were stamped "U. S. Department of Agriculture."

Q. Then all the eggs were stamped "U. S. Department of Agriculture," is that right?

A. 35 cases.

Q. 35 cases. What was the date you were down there? A. 4/26/44.

Q. You put 4/26/44 in a circle on the lower left-hand side and a 4/26/44 in the upper right-hand side; is that right? A. Yes.

Q. When did you do that?

A. At the time the eggs were graded.

Q. Why did you put it down there twice?

A. I don't remember.

Q. One time you put it in pencil and one time you put it in ink? [519]

A. Yes.

Q. Each time you were putting it there to represent the day you were down there?

A. That is correct.

Q. You did it on the same day?

A. Yes.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. When did you do this other writing in the blue ink—is every bit of the writing on there writing which you put on there on the 26th of April?

A. 1944? Yes.

Q. How many pens did you have on that day?

A. One.

Mr. Faulkner: I would like the exhibit shown to the jury, your Honor; they have never seen it. We may be going too fast. Is this in evidence?

The Clerk: Is that 58?

Mr. Faulkner: Yes.

The Clerk: Not in evidence.

Mr. Faulkner: But all the others are in evidence?

The Clerk: No.

Mr. Faulkner: Didn't they put them all in evidence?

Mr. Hippeli: That was an oversight on my part if it is not.

Mr. Faulkner: Do you want to offer that?

Mr. Pratt: No.

Mr. Faulkner: You don't want to offer that?

Mr. Hippeli: No.

The Court: We will now take a recess until two o'clock this afternoon. The jurors may be excused.

(A recess was taken until two o'clock p.m.)

Afternoon Session, January 23, 1945, 2 p.m.

LT.-COL. PEARL HUGH HAND,

recalled.

Cross-Examination (Resumed)

Mr. Faulkner: Q. Do you remember, Colonel, the incident of making an inspection of eggs in co-operation with the Federal Bureau of Investigation men on the U. S. Cape Pillar—P-i-l-l-a-r—is that right? A. Yes.

Q. Do you remember that incident?

A. I remember preparing an inspection sheet of the shipment, yes.

Q. You remember what?

A. Preparing an inspection sheet.

Q. Is that all you remember about it, preparing the sheet?

A. I remember being on the boat.

Q. You remember being on the boat. Where was the boat tied up? A. I don't recall.

Q. Was it on this side of the bay, or across the bay?

A. I don't recall where it was docked.

Q. But you do remember being on the boat?

A. Yes.

Q. You remember certain eggs being exhibited to you? A. Yes.

Q. Where did you see them?

A. On the boat.

Q. Whereabouts?

A. I first saw them in the cooler, the refrigerating room.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. How many eggs were involved in the quantity that was shown to you?

A. I don't remember the amount.

Q. Now, at the time that you went on board the boat, did you [521] have one of these forms with you similar to the one you had on the Henry White?

A. Yes.

Q. When you got on the boat you made an inspection of eggs, is that right? A. Yes.

Q. And you inspected the eggs and made certain notations on that paper—is that right?

A. Yes.

Q. When you completed your inspection and left the boat had you finished all of your writing on that paper? A. Yes.

Q. Did anyone else write on it?

A. I don't recall whether anybody else wrote on it, or not.

Q. Is it your practice to have other people write on your inspection sheets?

A. Occasionally the agent with me would initial it.

Q. Initial? Or write his name.

A. Or write his name.

Q. Who was the agent with you on that occasion?

A. I don't recall exactly which agent it was.

Q. Do you recall anybody who was with you on that occasion?

A. I think Agent Huyett Magee was there.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. Magee. Do you recall whether any member of the Veterinary Corps was with you?

A. I don't remember.

Q. Do you recall whether there was anyone with you at all other than Agent Magee?

A. Huyett Magee; no, I do not.

Q. Do you remember the date of that inspection on the SS Pillar? A. No.

Q. Would you remember the date if you saw your memorandum? [522]

A. Yes.

Q. I show you a paper that you identified on your direct examination as having been prepared by you; can you tell me from that paper the date that you were on the SS Pillar?

A. Yes; 4/26/44.

Q. Can you tell me, Colonel, when you put the date 4/26/44 on that paper?

A. The date I made the inspection on the Cape Pillar.

Q. You had occasion to write the date twice there, did you not? A. Yes.

Q. I direct your attention, Colonel, to the fact that part of the writing on this paper is in pencil and that part is not. A. Yes.

Q. Part of it is in ink, a blue ink writing, is that correct? A. Yes.

Q. Down below; under the lines "Total" and "Average" I will ask you if you wrote that black ink writing at the time and place you were on the boat, or not? A. No.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. You did not? A. No.

Q. So this paper was not entirely prepared and written while you were on the S.S. Pillar, was it?

A. It was not completed, no.

Q. So that at some future date after you left the S.S. Pillar you did some more writing on that paper, didn't you? A. No, I did not. [523]

Q. Did you see that paper during the recess?

A. No.

Q. Did you examine it after you left the stand at twelve o'clock? A. No.

Q. You did not. Did you examine a counterpart, a photostatic counterpart of that paper during recess? A. No.

Q. On the day you went down and examined eggs on the Cape Pillar, did you know the prices that eggs were selling for at that time?

A. No.

Q. When did you put these marks about the prices of eggs on that paper, Exhibit No. 58, for Identification? Do you remember putting the prices of eggs on the paper? A. Yes.

Q. What was the occasion of that, Colonel?

A. It was merely a notation for my own reference.

Q. When did you do that?

A. The same day, at my office.

Q. The same day, at your office?

A. Yes.

Q. By the way, Colonel, did the Poultry Pro-

(Testimony of Lt.-Col. Pearl Hugh Hand.)

ducers Association have anything to do with this inspection? A. No.

Q. Did the Poultry Producers Association have anything to do with the prices that you noted on the paper you made for the Cape Pillar? A. No.

Q. You wrote down there certain prices. Will you tell me what you wrote? I cannot read it. What does it say, Colonel?

A. I believe it says "Medium eggs 41 cents."

Q. What are the words you wrote there?

A. "Small eggs 25 cents." [524]

Q. What else is written there?

A. I believe it means processed Pee-wees per dozen.

Q. Doesn't that mean Poultry Producers' price 35 cents? Isn't that what you wrote on there?

A. No.

Q. That "P Pr" stands for what?

A. Per dozen.

Q. What? A. Processed, per dozen.

Q. Did you ever hear at any time or place of processed P eggs—did you ever hear of them before you came into court?

A. I can put anything I like on this document.

Q. So that at sometime during the occasion that you were preparing this paper in connection with this investigation you thought that it would be proper to put down "P Pr 35 cents"?

A. Yes.

Q. When you put down "P P Pr 35 cents," you meant what?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. Processed per dozen.

Q. Processed P——

A. "Per."—"Processed Per".

Q. The first "P" stands for what?

A. Processed.

Q. What does the second "P" stand for?

A. Per.

Q. Per? A. Yes.

Q. P-e-r? A. Yes.

Q. "Processed Per." Now, what does the "Pr" stand for? A. "Per dozen."

Q. What? A. "Per dozen."——

Q. What does the "35 cents" stand for?

A. The existing market price.

Q. Now, you have written here, "Small eggs 25 cents." Then in brackets you have written something else. You will have to [525] tell me what it is. Will you tell us what it is?

A. That means the same thing, processed per dozen.

Q. "Small eggs 35 cents." Then in brackets, "P. P". A. That's right.

Q. Is that right? That stands for what?

A. Processed per dozen.

Q. What is the next word after "P. P"?

A. "P D."

Q. What does that mean?

A. Per dozen.

Q. Per dozen. Does the "P P" in the last line where it says "Small eggs 35 cents P. P." are the

(Testimony of Lt.-Col. Pearl Hugh Hand.)

letters "P P" in that line to mean the same thing as the "P P" in the line before? A. Yes.

Q. You examined some information that was available to you on the day of this inspection and you noted those prices from it, is that right?

A. I obtained the information, yes.

Q. Where did you obtain it?

A. If I remember right, my sergeant got it from the Department of Agriculture.

Q. Where did you end up getting it?

A. I don't recall exactly, I would have to check with the sergeant.

Q. On the SS Cape Pillar who wrote the figures on the bottom of Exhibit 58 for Identification under the column, or in the column which on the left appears the word "Total"?

A. That was written by Captain Milton R. Evans, my assistant.

Q. He was not down there on the SS Pillar with you, was he?

A. I don't recall whether he was there, or not.

Q. Who wrote the figures in the column after the word "average"? A. Captain Evans.

Q. Who wrote the figures which show the grades that were placed on those eggs?

A. Captain Evans.

Q. When did he write them?

A. I don't recall just when.

Q. Did he write them in your presence?

A. No.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. Did he write in preparation for the trial in the last month, this trial?

A. I don't know.

Q. You don't know. Did you ever see this paper with Captain Evans' writing on before you came into this court? A. Yes.

Q. When?

A. It has been in my possession since it was prepared.

Q. Since the date of the inspection?

A. Yes.

Q. When did you part with possession of it so Captain Evans could write on it?

A. The file was available.

Q. The file was available. The file was available to anybody, is that right, in your service?

A. In the armed forces.

Q. When you had concluded your grading of these eggs on the S.S. Pillar had you reached a conclusion as to what they would grade?

A. No.

Q. Were you not down there on that pier for the purpose of reaching that conclusion? Were you not on the boat for that purpose? A. Yes.

Q. Did you reach a conclusion?

A. Not a final conclusion, just a mental average.

Q. In the course of your examination of the eggs on the S.S. Cape Pillar did you have occasion at any time to weigh any eggs on that boat?

A. I would have to refer to the sheet. Yes, I did.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. Will you look at the sheet? Whereabouts on the sheet is there any information that refreshes your recollection that you actually weighed those eggs?

A. Under the column stating "Percentage under 22 ounce eggs."

Q. The last column: A. Yes.

Q. That column is headed with the words "Under 22-ounce eggs," is that right? A. Yes.

Q. Did you make certain entries under that column? A. Yes, I entered the word "small".

Q. Did you enter the figures? A. Yes.

Q. Are the figures in your handwriting?

A. Yes.

Q. Is the word "Small" in your handwriting?

A. Yes.

Q. Do you recall after looking at the paper and remembering that you were on the S.S. Pillar, do you remember actually weighing the eggs on the S.S. Pillar? A. Yes.

Q. How did you weigh them?

A. With the use of an egg scale.

Q. Is it the same egg scale that you used on the Henry White? A. Yes.

Q. Did you use the same egg scale on the S.S. Coulter and the Muir and the Josiah Royce?

A. Yes.

Q. Did you carry the same egg scale with you?

A. Yes. [528]

Q. At no point in your paper did you indicate any weight for an egg, did you?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. On this paper?

Q. Yes. A. Yes.

Q. Where? A. In the last column.

Q. What are the weights of those eggs?

A. They were small eggs.

Q. That is the conclusion, Colonel. What are the weights, what is the weight of the eggs?

A. They were 18 ounces per dozen.

Q. Pardon me? A. 18 ounces per dozen.

Q. You put it under that column?

A. That runs under 22 ounces per dozen. I wrote the word "small" after the number of eggs.

Q. You wrote down the number of eggs, 36, 36, 28, 10, 13, 6, 12, 30, 6, 38 under that column?

A. I wrote the figure 36 and the word "Small."

Q. I did not ask the question that way, Colonel. You wrote the figures 36, 36, 28, 10, 13, 6, 12, 30, 6, 38; what do they stand for?

A. The number of eggs in each filler that were weighed and determined to be Small eggs.

Q. You put all those weights under that column that says "Under 22-ounce eggs," didn't you?

A. Yes.

Q. You wrote after them the word "Small"?

A. Yes.

Q. You put under the word "Small" ditto marks after the remaining figures? A. Yes.

Q. Repeating the word "Small." You based the conclusion on the weight of the eggs after you weighed them that they were [529] small, didn't you?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. They weighed up 18 ounces per dozen.

Q. The word "Small" is a conclusion after you determine the weight, is that right?

A. They weighed out small, yes.

Q. What weight did they weigh out?

A. 18 ounces per dozen.

Q. How did you weigh them?

A. I used an egg scale.

Q. Single eggs? A. Yes.

Q. Where did your set the scale?

A. To weigh 18 ounces per dozen.

Q. Right at 18 ounces, is that right?

A. Yes.

Q. If they didn't break the 18 ounces you would call them small?

A. No. If they were slightly under I didn't call them small.

Q. How could they come slightly—the eggs either broke the scale or they didn't break the scale.

A. With a slight push if will break.

Q. You mean a wabble slightly——

A. Touch it, by giving it a slight break.

Q. Do I understand, then, that you set the scale at 18 ounces? A. Yes.

Q. You weighed the eggs? A. Yes.

Q. After you weighed the eggs on a scale of 18 ounces you found that in the first eggs there were 100 eggs which were small, is that right?

A. That is correct.

Q. So the fact is that the 100 eggs you weighed in that case No. 1 all broke the scale?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. 18 ounces, small, yes.

Q. They all broke the scale, didn't they? Colonel, if the 100 [530] eggs broke the scale at 18 ounces you don't know whether they would have broken the scale at 24 ounces, do you?

A. I tried them at 21 ounces.

Q. A moment ago you said in weighing these eggs you had the scale set for them at 18 ounces and they all broke the scale at 18 ounces.

A. Yes, just barely.

Q. All right. Colonel, will you describe the S.S. Pillar, what you personally did in weighing those eggs, just everything you did in relation to weighing the eggs?

A. I put them on the egg scale individually and watched them break the scale at 18 ounces. They would just barely tip the scale. A heavier egg would break the scale with a thud, a light egg wouldn't hardly break it and slight pressure from the index finger you could break the scale.

Q. I am talking about the S.S. Pillar.

A. That is what I did on the Pillar.

Q. On the Pillar? A. Yes.

Q. Tell me, when you put that scale over to 21 ounces that you just mentioned when did you do that in the operation?

A. It was my own.

Q. A moment ago you said you did put it over to 21 ounces.

A. I did on an occasion or two but not all the eggs.

(Testimony of Lt.-Col. Pearl Hugh Ha[illegible])

Q. So in the weighing of the eggs you were changing the basis of weight from 18 ounces generally, then you would do it at 21 ounces?

A. All canners do that, yes. [531]

Q. So there were occasions there where you were examining your eggs when it was apparent to you that some of the eggs might be Mediums, is that right? A. Yes.

Q. But there is not any question about the 100 eggs in the first case, it will add up exactly to 100 unless I have added that wrong, that every one of them was 18 ounces or over, it that true?

A. Yes.

Q. You never recorded those weights either on this instrument or any other instrument, did you?

A. They were recorded as small eggs.

Q. You never recorded the weights, you never wrote down on any paper at all the weight of any of the eggs, did you?

A. The lot of eggs was inspected in accordance with the U. S. Standards.

Faulkner: I think I am entitled to a direct answer. I ask the Court to direct the witness to answer the question.

The Court: Read the question.

(Question read.) [532]

The Court: Q. Do you understand the question? A. Yes.

Q. You may answer.

A. I wrote down the word "Small".

Mr. Faulkner: I ask that the Court direct the witness to answer the question.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

The Court: The question and answer may stand.

Mr. Faulkner: Q. Did you ever write down the weight? The word "Small" is not a weight, is it?

A. It indicates a weight average per dozen.

Q. It is your opinion, isn't it?

A. No, it is set up in the U. S. Department of Agriculture Standards.

Mr. Pratt: If the Court please, I object to further interrogation along this line, repetition upon repetition. It simply takes everybody's time without any point, and I object to further examination along this particular line.

The Court: I have allowed considerable latitude. It would be well to conclude with this witness. Proceed.

Mr. Faulkner: Q. In weighing the eggs in the second and third case, whatever method you followed, did you follow it in the second and third case? A. Yes.

Q. In the case there 29 Small eggs, according to your chart, isn't that correct? A. Yes.

Q. What were the balance?

A. They were Mediums.

Q. How do you know they were Mediums?

A. Because they broke the scale, the Small scale, the 18-ounce set on the scale, very readily. [533]

Q. They might have been Larges, may they not?

A. They could have been.

Q. So they were at least higher; they broke the scale readily, is that right?

A. Yes, they went down with a thud. Very obviously they were larger than the Small.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. In Case 3 on the SS. Pillar there are 76 eggs that were weighed, is that right? A. Yes.

Q. And you put down "Small" after them, is that right? A. Yes, that is right.

Q. Now, the 29 eggs in Case 2 and the 76 eggs in Case 3 all broke the 18-ounce mark, isn't that right? A. Yes.

Q. Now, you have a figure here on that paper, or, rather, a figure appears on that paper, 68.3. What does that mean, under the column, "Percent under 22-ounce eggs."?

A. That means the number of eggs, the percentage of the eggs that were small.

Q. Out of a total of how many? Three hundred? Three hundred eggs? Withdraw that. There were 300 eggs involved in the inspection, 100 from each.

A. Yes.

Q. And 68.3 of them broke the scale at the point for Small eggs, is that right? A. Yes.

Q. Now, Colonel, how were those cases labelled, do you recall? A. Mediums.

Q. The three cases that you inspected?

A. Mediums.

Q. I mean what kind of label did they have on?

A. They had a green label on them. [534]

Q. A green label? A. Yes.

Q. Did any of them have the letter "P"?

A. I do not recall whether it did or not.

Q. Do you recall whether any label that was on any of the cases down there was selected by you or, rather, initialled by you?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. Not definitely, no.

Q. Now, did you examine the cases involved in the entire shipment, Colonel? Did you examine all of the cases? A. I counted them.

Q. Did you ever see the purchase order for those eggs? A. I do not recall.

Q. You do not recall? A. No, I do not.

Q. Did you ever see the invoice for the eggs?

A. I saw a pencilled notation of the company invoice. Whether it was the true one or not I do not recall.

Q. You say a pencilled notation?

A. Or a copy of it, something similar.

Q. Who gave you that?

A. It was in the possession of an officer on the ship. I don't remember just who it was.

Q. There were 45 cases involved in the shipment, were there not, Colonel? A. Yes.

Q. Did they bear any inspection stamp on them at all?

A. Thirty-five of them were stamped with the U. S. Department of Agriculture Grade AA, dated 4/24/44.

Q. Did any of them bear any other mark on them other than the [535] United States Department of Agriculture?

A. Ten of them were not stamped, and they were stamped with a "P".

Q. Stamped with a "P" like—is this card initialled by you, Colonel? A. Yes.

Q. I refer to Exhibit No. 45. That is your handwriting in there? A. Yes.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. Where did you get that cover?

A. It was taken off a case on the Cape Pillar.

Q. Was it a carton, a fiber case, rather?

A. I do not recall whether it was fiber or wood.

Q. And those fiber cases on the SS. Pillar or the wooden cases, were there labels on both ends?

A. I do not recall.

Q. Did you examine both ends of the cases?

A. Not always, no.

Q. Now then, on any of these shipments, either on the White or the Muir, the Coulter or the Josiah Royce, did you examine both ends of each case?

A. You mean just for the labels?

Q. No, did you examine them at all?

A. No, I would usually grade one side.

Q. Pardon me?

A. I would usually grade one-half of the eggs, that is, a hundred eggs in one-half of the case.

Q. Yes, but those are on the cases that you picked out? A. Yes.

Q. You selected. Now, Colonel, take for instance in that order for the Cape Pillar with 45 cases of eggs, that would be two stands of eggs, isn't that right? In a plant it would be approximately two stands of eggs, one of 30 and one of a half- [536] stand of 15, wouldn't that be right?

A. Yes, it depends on the quantities.

Q. And you picked out of the 45-case lot three cases to grade, which was more than the army requirement of 5 per cent, just about the right number for 45 cases, wasn't it?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. Approximately.

Q. That left 42 cases remaining, is that right?

A. Yes.

Q. Did you examine all of the 42 cases?

A. No, I went in through the middle of the pile and took out a representative sample, the back of the lot, the top, and I believe one side.

Q. After you made all the grading both on the Pillar and the Henry White, the number of cases that you actually inspected and you actually reached a conclusion concerning were approximately five per cent of them, isn't that correct?

A. Yes, that should be a representative quantity.

Q. And you picked them out at random?

A. Yes.

Q. Without anyone suggesting to you which to pick out? A. Yes.

Q. In the instances of the SS. Pillar there remained 42 cases which, so far as you know, you do not know what type of eggs they were?

A. There were ten cases that were definitely Pee-wees.

Q. How do you know that?

A. I opened them up.

Q. You opened all ten cases? A. Yes.

Q. Did you weigh the eggs? A. No.

Q. Did you weigh the cases? A. No.

Q. Did you do any weighing of those cases at all?

A. I went [537] through them, and looked at the eggs individually.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. I said did you do any weighing, Colonel?

A. No.

Q. Now, the ten cases that you have classified as Pee-wees, were they marked with a Department of Agriculture stamp? A. No.

Q. None of them were? A. No.

Q. Were they fiber cases or wooden cases?

A. I don't recall.

Q. Now, Colonel, would you look at the paper that relates to the—do you recall, Colonel, the date appearing upon the Department of Agriculture stamp? A. On which ship?

Q. On the Pillar? A. Yes; 4/24/44.

Q. In connection with the entire shipment of 45 cases was there any difference in the appearance of the boxes in which the eggs which you refer to as Pee-wees were containd and those that contained the eggs that were not Pee-wees?

A. Not that I recall.

Q. In other words, the 45 cases had a general appearance alike, is that right?

A. Yes, except that they had the "P" on the label.

Q. Some of them had the "P" on them. Your idea of the meaning of that letter "P" was Pee-wee, is that right?

A. I assume so. They had "P" on them.

Q. Have you ever seen the letter "P" on a case of eggs to denote that they were processed, Colonel?

A. No.

Q. Now, the Josiah Royce is the next ship here.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Did you ever see the purchase order relating to the Josiah Royce?

A. Not [538] that I recall, no.

Q. Did you ever see any invoice from Nye & Nissen relating to the Josiah Royce?

A. I saw a copy of one. Whether it was the original or not I couldn't say.

Q. In respect to the Josiah Royce, Colonel, at all events you were down there—do you remember inspecting any eggs on the Josiah Royce?

A. Yes.

Q. And do you remember when you did that?

A. No.

Q. Do you remember in whose company you were?

A. I believe I was with Special Agent Magee.

Q. Anyone else? A. Not that I recall, no.

Q. Were you there with Captain Evans?

A. I do not recall whether he was there or not.

Q. Now, in respect to that shipment, Colonel, on the Josiah Royce, I will ask you if these eggs were inspected generally the same way as far as inspection goes that you followed on the SS. White and Pillar; do you remember? A. Yes.

Q. You did follow the same method?

A. Yes.

Q. Do you recall the date of that inspection by you? A. 4/25/44.

Q. Were any of the cases stamped by any agency of the United States? A. Yes.

Q. How many?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. The shipment was divided into two different shipments.

Q. Where were they? What do your records show of the number of [539] cases stamped with the United States——

A. It shows at first there 50 cases of purportedly U. S. Grade AA Medium Eggs delivered, and in that shipment there were 10 cases of Pee-wees.

Q. And 60 of those cases, according to the note made by you, bore a stamp, didn't they?

A. That is the final delivery, yes. Ten cases were delivered at a later date. The Pee-wees were returned to the plant.

Q. According to the paper that you hold in your hand, 50 cases bore a stamp, didn't they?

A. Yes.

Q. What was the stamp they bore?

A. U. S. Department of Agriculture.

Q. What else? A. Grade AA.

Q. So that the stamp that you saw on the 60 cases was 4/24/44, U. S. Department of Agriculture, Grade AA, didn't you? A. Yes.

Mr. Hippeli: May I have the time and place that he saw that fixed, your Honor?

Mr. Faulkner: This is a document they have introduced. I think this is one they introduced.

Mr. Hippeli: The witness has testified he saw two lots of eggs on there.

The Court: You may develop that on redirect examination.

Mr. Faulkner: Q. Colonel, the shipment called

(Testimony of Lt.-Col. Pearl Hugh Hand.)

for, do you recall how many eggs were ordered by that ship? A. No, I do not.

Q. Did you examine 60 cases of eggs stamped 4/24/44, U. S. [340] Department of Agriculture, Grade AA, on April 25, 1944?

A. No, I examined samples from 50 cases.

Q. Of how many?

A. From 50 cases out of the delivery.

Q. Are they a part of the 60 cases referred to in the line that says "Port or camp for which purchases, 60 cases," stamped 4/24/44, U.S.D.A. Grade AA?

A. They were part of the first delivery, which consisted of 50 cases of Mediums and 10 cases of Pee-wees.

Q. Colonel, are they part of the 60 cases you described in that line? A. The fifty, yes.

Q. The fifty became part of the sixty?

A. Yes.

Q. And then the 50 cases bore a stamp?

A. Yes.

Q. 4/24/44, U. S. Department of Agriculture, Grade AA, is that right? A. Yes.

Q. So that you graded those on that occasion, am I right? A. Yes.

Q. What size eggs were they? Large or Small or Medium, if you know?

A. They were Small, Grade A.

Q. They were Small, Grade A, is that right?

A. Yes.

Q. And you examined them on what day?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. 4/25/44.

Q. Did you have occasion to examine another 50 cases for the steamboat on the same day?

A. No.

Q. The next day? A. No.

Q. Or any other day? A. No.

Q. Did those eggs remain on board the Josiah Royce?

A. The [541] original fifty on the first delivery, yes.

Q. They did remain? A. Yes.

Q. So that 50 cases were examined and remained, so far as you know, on the Josiah Royce?

A. Yes.

Q. You examined them on April 25?

A. Yes.

Q. Did you find any AA eggs among the eggs that you examined? A. No.

Q. What does the letter "M" mean under "U.S.A.A."? A. It stands for Medium.

Q. Is it in your handwriting? A. Yes.

Q. What does that letter "B" under Grade U.S.D.A." mean?

A. That is not a "B". It is an "S".

Q. A what? A. It is an S.

Q. That is an S? A. Yes.

Q. You have two more M's in circles. What do they mean? A. Medium.

Q. That is related to the second case?

A. Yes.

Q. And the third case you have S and M.M. What does that mean?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. The S means that they were small.

Q. What does the M.M. mean?

A. They should have been Medium.

Q. What?

A. That they were supposed to have been Medium, but they turned out to be Small.

Q. That is what those figures mean, is that right?

A. That is correct.

Q. That they were supposed to be Medium and they turned out [542] Small? A. Yes.

Q. Now, the fact is they were supposed to be Large eggs, weren't they, Colonel?

A. I do not recall what they were supposed to be.

Q. Look at your paper and tell me your best recollection of what that shipment of eggs was supposed to be?

A. As near as I recollect it was supposed to be Medium.

Q. Did you grade all of those eggs or, rather, did you inspect them all?

A. I inspected four cases.

Q. Those four cases, that would be five percent of 60 cases, isn't that right? A. Yes.

Q. Or more. And in the inspection of those eggs there would remain 56 cases that you did not inspect, isn't that correct?

A. No, I made the inspection of 50 cases.

Q. Well, either way you have more than five percent.

A. Ten cases of Pee-wees I did not inspect.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. You did not inspect them at all?

A. I inspected one case and they were returned.

Q. Is one of these cases supposed to be Pee-wee eggs? A. Yes.

Q. You classify a Pee-wee egg as under what classification for eggs?

A. Under 15 ounces. That is the minimum weight for any individual egg, for 12 eggs per dozen.

Q. Which eggs then represented on that sheet of paper represent what you call a Pee-wee egg?

A. No. 4.

Q. No. 4? Now, the No. 3 eggs, what did that represent? A. Small. [543]

Q. Is that why you wrote "Pee-wee" after it in the righthand column? A. No.

Q. So you wrote Pee-wee in that instance to indicate that they were Small, is that correct, Colonel? A. Yes.

Q. But in the next column in Case 4 you wrote "Pee-wee" to show that they were smaller than Small, is that right?

A. They were under the minimum weight.

Q. But was Case 3 under the minimum weight?

A. No.

Q. But nevertheless you wrote the same word "Pee-wee," didn't you? A. Yes.

Q. Apart from the weight of those eggs did you grade them?

A. I did not give them an official grade then, no.

Q. Is that paper all in your handwriting?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. No.

Q. Quite a bit of it is not, is that right?

A. Notations at the bottom.

Q. The calculations at the bottom and the grading at the bottom are not in your handwriting, are they?

A. They are in the handwriting of Major Evans.

Q. When did he do that, Colonel?

A. I do not know.

Q. Did he do it in preparation for this trial?

A. No.

Q. Did he do it within a month? Did he ever do it in your presence? A. No, he did not.

Q. What grade did Captain Evans give to those eggs? A. Small Grade A.

Q. That is one grade lower than the grade that appeared on the [544] Department of Agriculture's stamp, is that right? A. Yes.

Q. Do you know, Colonel, whether or not it has been the practice for years where eggs have been inspected by the Department of Agriculture to inspect them at the port of delivery one grade lower than they were inspected at the point of origin?

A. Yes.

Q. That is also the practice of the Army, isn't it?

A. Yes.

Q. Did you weigh any of those eggs?

A. Not by case lots, no.

Q. Did you weigh any of the eggs at all?

A. Yes, individually.

Q. Individual eggs, and did you weigh them

(Testimony of Lt.-Col. Pearl Hugh Hand.)

in the same way you described them in the other two ships? A. Yes.

Q. Did you make any notations of the weight you found on the eggs as you went along?

A. Yes.

Q. You did? A. Yes.

Q. Of the weights? A. Yes.

Q. Where are they?

A. It is in the last column under 22 ounces per dozen.

Q. That is merely a column in which it says "Small Eggs?"

A. No, I have 16 to 19 at the top, the weight range.

Q. Per cent under 16-19, is that right?

A. That is correct.

Q. Pardon me? A. Yes.

Q. Is that where you had the scales set?

A. Within that range. It was set at 18.

Q. Which did you have it set at, 16 or 19?

A. At 18.

Q. Pardon me?

A. I had it set at 18, also 16.

Q. Did you ever have it set at 19? A. No.

Q. On that sheet of paper again you have some handwriting and it reads "Shipping—" something.

A. Shipping ticket, I believe, Nye & Nissen.

Q. Shipping what?

A. Shipping ticket, Nye & Nissen, N & N.

Q. The second word—that is the word?

A. Ticket. T-i-c-k-e-t.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. N. and N.? A. Yes, Nye and Nissen.

Q. What does that mean? What does that refer to?

A. If I remember correctly, it was the price per dozen on the shipping ticket or the invoice, the company invoice.

Q. Underneath that there is another figure?

A. 41 cents a dozen.

Q. 41 cents, and then there is some other writing, Medium something?

A. Medium eggs per dozen, 35.

Q. Per dozen? A. Yes.

Q. 35 cents? A. Yes.

Q. Small eggs—25 cents? A. Yes.

Q. What does that mean, Colonel? What does that writing represent on that document?

A. Just mental notations I have made of the market value of the eggs.

Q. When? A. That day, 4/25/44.

Q. Did I understand you to say, Colonel, there were some eggs that did not have a Department of Agriculture stamp on them?

A. Yes, ten cases of Pee-wees.

Q. How were the cases marked?

A. With a "P."

Q. Now, then, in all of these cases that you examined, where you [546] say you saw Small eggs or Pee-wee eggs, did each one of them on the label have the letter "P?" A. Yes.

Q. And in the cases that did not have the letter "P," is it your testimony, Colonel, that they had the larger eggs?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. They were larger, yes.

Q. So that in the examination that you made on April 24, 25, 26 and May 3, it appeared to you uniform that all of what you have termed Small eggs, Pee-wee eggs, were in cases lettered with "P," and the larger cases of eggs were in cases that did not bear the letter P?

Mr. Hippeli: He did not testify to that at all, your Honor.

Mr. Faulkner: Is that right?

Mr. Hippeli: He has testified to grading many eggs here and he selected certain cases from certain groups. Now he is lumping all these groups into a common grading and asking him one question about them.

Mr. Faulkner: Why not? It will save time.

Mr. Hippeli: I do not think it is at all fair to the witness.

The Court: Read the question, Mr. Reporter.

(The last question was read by the reporter.)

Mr. Pratt: I object to that. There are two or three questions combined in one. Obviously he cannot answer it categorically.

Mr. Faulkner: I will submit the objection.

The Court: The objection is sustained. [547]

Mr. Faulkner: Q. On the ships White, Pillar, Muir and Josiah Royce, how were the cases marked that contained eggs which you have referred to in this courtroom as Pee-wee?

The Court: You may answer that.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. I would like to have the inspection document so I can refer to it.

The Court: He wants to know what particular eggs you are referring to. You have combined all of these shipments together on these various boats and he wants to consult with any memorandum you have in mind.

Mr. Faulkner: Anything that is written, your Honor, I have no obection to.

The Witness: Are they all here?

The Court: I do not know.

Mr. Pratt: Each of these documents is his original certificate and is here marked for identification. It seems to me it is up to Counsel to find the particular documents for him. They are all numbered as exhibits in the case.

Mr. Faulkner: Your Honor, I do not think Mr. Pratt should interfere with my examination on this matter. I do not need the document to propound the question. The question is very simple, and if the witness needs it to give an accurate answer I have no objection. Now, whether he needs it or not I do not know. He says he does.

The Court: I suggest that you reframe your question and [548] direct your question to some particular group or something that he can direct attention to in these reports.

Mr. Faulkner: All right.

Q. On the ship Henry White how were the containers or cases marked of all of the eggs which

(Testimony of Lt. Col. Pearl Ingo Hand.)

you have characterized in your testimony as Peewee? How were the cases marked on the outside?

A. On the USS. Henry White there were nine cases and on the label there was a "P" stamped in purple ink.

Q. Were there nine cases of eggs on the SS. Henry White that had the letter "P?"

A. Yes.

Q. Is that all——

Mr. Pratt: I object. The question has been asked and answered repeatedly. We are simply consuming time.

The Court: I hope it will be concluded shortly. Read the question, Mr. Reporter.

(The last question and answer were read by the reporter.)

Mr. Faulkner: Q. Are those all the cases that have the letter "P?"

A. Yes, to my knowledge.

Q. And were all the eggs in those cases inspected by you and considered by you to be Peewee eggs? A. Yes.

Q. Were there any other cases with the letter "P" on other than those nine on the White?

A. No.

Mr. Pratt: I object to this because it is repetition.

The Court: The answer is no.

Mr. Faulkner: Q. Now, on the Cape Pillar there were 45 [549] cases involved, am I correct, Colonel? A. Yes.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. You found certain eggs which you have characterized here as Pee-wees?

A. Ten cases marked with purple.

Q. Were each of those cases marked with the letter "P?" A. Ten of them were.

Q. Each of the ten?

A. Yes, on the label.

Q. Were any of the remaining 35 cases marked with the letter "P?" A. No.

Q. Now, on the USS. Josiah Royce were there any eggs on the Josiah Royce shipment that you characterized as Pee-wee eggs?

A. Ten cases.

Q. How were those cases marked?

A. Stamped with a "P" in purple ink on the label.

Q. And the remaining cases, 50, did any of them have the letter "P" on them? A. No.

The Court: We will take a recess for a few minutes. The Jury may be excused.

(Recess.) [550]

Mr. Faulkner: Q. Colonel, what sheet have you got there now?

Mr. Hippeli: I think you were referring to the Josiah Royce, Mr. Faulkner.

Mr. Faulkner: The Josiah Royce.

Q. There were certain eggs which you referred to in your testimony as Pee-wee eggs, is that correct? A. Yes.

Q. How many cases were there that you considered—— A. Ten.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. What? A. Ten.

Q. Did they bear a Nye & Nissen label?

A. Yes.

Q. Did they have a letter "P" on them?

A. P stamped in purple ink, yes.

Q. "P" stamped in purple ink. The remainder of the cases didn't have the letter "P" on them? A. No.

Q. Was the Department of Agriculture stamp on any of the cases with the letter "P?"

A. No.

Q. Was it on all the remaining cases without the letter "P?" A. Yes.

Q. Would that be true if I asked you the same question in respect to the SS. Cape Pillar and the Henry White, that the cases without the letter "P" bore a Department of Agriculture stamp on them? A. Without the "P?"

Q. Yes. A. Yes.

Q. On the USS. John Muir there were how many cases involved in [551] that, Colonel; we haven't talked about this one yet.

A. There were 48 cases in the delivery.

Q. 48 cases what? A. In the ship.

Q. Were any of those cases marked with the letter "P?" A. Ten of them.

Q. Were they marked with the Department of Agriculture stamp? A. No.

Q. Were the remaining cases, the 38 cases that didn't have the letter "P" on them marked with a Department of Agriculture stamp? A. Yes.

(Testimony of Lt.-Col. Pearl Hugh Hand.)

Q. The fact is, according to the record that you took at that time and place you showed 48 cases of which only three were not stamped; isn't that correct?

A. On first observation, yes.

Q. What?

A. In first observing the samples, yes.

Q. At some time during the examination of the eggs down there with the Department of Justice men for the purpose of accurately determining the condition of those eggs you wrote at that time and that place 3 cases not stamped marked "P," didn't you?

A. Yes, before I observed the stack of eggs on the floor.

Q. And later you found the other seven cases bore the letter "P?"

A. I went through the lot. That is why there were seven more.

Q. Is there any place on that memorandum which is marked Exhibit 66 in evidence, is there any place in that paper that indicates that none of the ten cases which you have characterized on that paper as Pee-wees were cases marked with a Department of [552] Agriculture stamp?

A. I did not understand the question.

Q. Is there anything on that paper to tell how many cases were marked with the Department of Agriculture stamp?

The Court:- You are limiting it to Pee-wee eggs?

(Testimony of Lt. Col. Pegri Hugh Hand.)

Mr. Faulkner: No. Marked with the Department of Agriculture stamp.

The Court: Which eggs, what eggs?

Mr. Faulkner: The ship John Muir.

The Court: Oh, any of them?

Mr. Faulkner: Yes, on any of them. There are 48 that he has referred to and 10 cases——

A. 38 were stamped with the U. S. Department of Agriculture stamp.

Q. On all of the—withdraw that. Did all of the eggs that did not have the letter "P" on the cases bear an Agricultural Department stamp?

A. Yes.

Q. That is true of all the ships, isn't that correct? A. Yes.

Q. Colonel, what did the eggs grade on the John Muir?

Mr. Hippeli: I am sorry to interrupt. May I hear the last two questions and answers?

Mr. Faulkner: What did the eggs weigh?

Mr. Hippeli: The prior question.

(The record was read by the reporter.)

Mr. Faulkner: Q. Can you tell me what the eggs graded on the John Muir, Colonel?

A. There were two different lots. There was a lot of Pee-wees and a lot of 38 cases. The 38 cases [553] graded Mediums, Grade C, showing five per cent loss which would put them in a no-grade category.

Q. How did the eggs that you referred to as Pee-wees grade?

(Testimony of Lt. Col. Pearl Hugh Hand.)

A. They were a Grade B, but they are not officially graded by the U. S. Department of Agriculture standards. That is merely a notation of mine.

Q. I mean eliminating the size, as far as their quality was concerned they graded B?

A. Yes.

Q. You graded them? A. Yes.

Q. Is the handwriting of the grades your handwriting, Colonel? A. Yes, it is.

Q. In that paper? A. Yes.

Q. What was the date of that inspection?

A. 4/24/44.

Q. Where did you make your inspection?

A. On the USS. John Muir.

Q. Do you remember that ship? A. Yes.

Q. Did you know what happened to the eggs after you finished your work? A. No.

Q. Did you write anything on that paper as to what happened to the eggs after you finished?

The Court: Do you mean the paper he has in his hands?

Mr. Faulkner: Yes, your Honor. By "that paper" I mean the Veterinary Section SOU No. 1927 with a "Form 11," the exhibit, I think, is 66.

The Witness: After the inspection, you mean after I left [551] the boat? I did not understand the question.

Q. You do not understand the question?

A. No.

Q. Where were the eggs on the John Muir when you inspected them?

(Testimony of Lt. Col. Pearl Hugh Hand.)

A. I first observed them in the refrigerating room. Then they were taken into a passageway for inspection.

The Court: Then what happened? Tell the Jury what happened.

A. Then they were placed back in the refrigerating room.

Mr. Faulkner: Q. Is that the last time you saw them?

A. Yes.

Q. Were the eggs taken from the USS. John Muir and placed on the Josiah Royce; is that your handwriting? A. Yes, it is.

Q. How do you know they went on the Josiah Royce if the last time you saw them was in the frigidaire of the John Muir?

A. I don't know that.

Q. Why did you write that, Colonel?

A. That was information I received at the time the report was made.

Q. When did you receive it?

A. At the time the report was made.

Q. When was that? A. On 4/24/44.

Q. When was the inspection?

A. 4/24/44.

Q. Who gave you the information?

A. I don't remember.

Q. So that these papers that you kept contain information that you obtained from other people, is that right?

A. Not pertaining to the grading, no.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. I say you put down on those grading sheets information you obtained from other people; isn't that right? A. In this case, yes. [555]

Q. Without that paper you have no recollection of the incident, have you? A. No.

Q. Nor have you any recollection of any of these incidents without the paper you wrote at the time, have you?

A. I have a recollection of making the inspections on the boats, yes.

Q. Did you weigh any eggs on the USS. John Muir? A. Yes.

Q. Did you weigh them all, all the eggs in the cases you inspected?

A. In the first three, yes.

Q. What types of eggs were they?

A. They were under Grade Pee-wee.

Q. What did they weigh?

A. Well, 15 ounces per dozen.

Q. In Case 1 you have 36 eggs. What does that mean?

A. That means all of them were that weight.

Q. Were what weight?

A. Under the minimum weight for each egg per dozen for Small eggs.

Q. Small eggs. When you put the circle around the letters what does that mean, Colonel? The first figure you have is—I can't read it. Under the heading "Under 22 ounce eggs" you have crossed out the "22." Is that right? A. Yes.

Q. When did you cross it out, do you remember?

(Testimony of Lt. Col. Pearl Hugh Hand.)

A. I see it is crossed out but I did not cross it out.

Q. You did not cross it out? A. No.

Q. When it left your possession it was not crossed out, was it? A. No, it was not.

Q. You have here under 22 ounce eggs," you have the figure, the first figure is 36, isn't that correct? A. Yes. [556]

Q. Next figure is 36? A. Yes.

Q. With a circle around it? A. Yes.

Q. What does the circle mean?

A. Nothing that I can identify just now.

Q. The next one is 36 with a circle around it. What does the circle mean? A. Nothing.

Q. Sometime there you wrote the word "Pee-wee" isn't that right? A. Yes.

Q. Is that your handwriting?

A. Yes, it is.

Q. And at another place you have written the word "Pee-wee," "10 cases of Pee-wees."

A. Yes.

Q. Colonel, you have testified that on the Cape Pillar certain eggs were examined by you and they are in this box that now bears "U. S. No. 59."

The Court: I thought they were returned to the Frigidaire.

Mr. Faulkner: Well, apparently they changed their minds, Judge. They are here and we will take the benefit of them.

Q. I show you an egg and ask you if that egg in my left hand, which I will continue to hold in

(Testimony of Lt. Col. Pearl Hugh Hand.)

my left hand, Colonel, is a typical Pee-wee egg, as you have testified to throughout this trial?

A. May I examine it?

The Court: You may.

Mr. Faulkner: Well, will you first tell me——

The Court: He wants to examine it.

Mr. Faulkner: He just wants to see his name on it, your Honor. [557]

The Court: Well, I cannot anticipate what he wants to do, but he is entitled to look at it.

Mr. Faulkner: Q. Is that a typical Pee-wee egg? Answer "Yes" or "No."

A. No. It is the larger of the Pee-wee class. There are small ones.

Q. That is a small egg, isn't it, Colonel?

A. No, it is not.

Q. Wouldn't that pass any place as a small egg by any candler? A. No.

Q. What is the weight of that egg—when it is fresh what would you say the weight of that egg would be?

A. I wouldn't attempt to guess.

Q. Well, so there will be no mistake about it, this type of egg that I hold in my hand that came out of that box is typical of the Type A that you have referred to for two days as Pee-wee eggs, isn't it? A. No, it is not.

Q. When you selected these nine eggs you selected them and identified them as Pee-wee eggs, didn't you? A. No.

Q. What? A. No.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. What did you select them for?

A. They were just selected.

Q. You selected them and identified them on your direct examination as Pee-wee eggs, taken from the Cape Pillar, didn't you?

A. I don't recall.

Q. You certainly weren't going to bring the largest eggs from the Cape Pillar as an exemplar of Pee-wee eggs, were you? Were you, Colonel.

A. If they were Pee-wees I would bring, [358] the Pee-wees.

Q. Look at the whole nine of them. I will ask you if those nine eggs are representative of the Pee-wee eggs that you have described as having seen and observed on these various ships, on the John Muir, the Josiah Royce, the Henry White, and the S. S. Cape Pillar?

A. I would say they were the larger class of eggs, of the Pee-wee eggs.

Q. They were unquestionably the smallest eggs you could find to bring with you, weren't they?

A. No.

Q. Are they the larger?

A. Yes, larger of the small group.

Q. What?

A. Largest of the small group.

Q. Who suggested that you pick these out?

A. I don't recall.

Q. That is the only ship that you picked any eggs out from, isn't it?

(Testimony of Lt. Col. Pearl Hugh Hand.)

A. I don't recall.

Q. Do you remember any incident on the White, the Coulter, the John Muir and the Josiah Royce where you selected any eggs and encased them in cotton as you did there and put your initials on them? A. I don't recall.

Q. Someone else signed these eggs, too, didn't they? A. Yes.

Q. Who? Do you remember?

A. Yes, I believe it was Huyett Magee.

Q. Who?

A. Huyett Magee, Special Agent.

Q. Did you see Mr. Magee on any of the ships I have mentioned select any eggs and sign his name on them, whether you signed or not?

A. He signed these in my presence. [559]

Q. Did you see him sign any others, in your presence? A. Not that I recall.

Q. So that of the various quantities of eggs, that is, a hundred eggs to each case that you candled and inspected the only eggs that you know that were selected for any purpose as an exemplar of the character of the eggs are the nine eggs in this box, is that right?

A. I don't remember, for sure.

Q. Are the nine eggs in this box, assuming there are nine, the only eggs that you selected out of the hundreds of eggs that you candled and inspected and weighed? A. No.

Q. Where are the others?

A. I don't know.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. What did you do with them?

A. I didn't do anything with them.

Q. Well, did you take them off the ships?

A. No, they were not in my possession.

Q. Did anyone take them off the ships in your presence? A. Not that I recall.

Mr. Hippeli: May I have the last several questions and answers read, your Honor?

The Court: Very well.

(The record was read.)

Mr. Faulkner: Q. In the various ships that we have referred to today, the Muir, the Coulter, the Josiah Royce, the Henry White, and the Cape Pillar, those five ships, did you take from any of those ships or from any of the cases any samples of eggs other than the ones in court?

A. I don't recall. [560]

Q. Do you recall whether on each ship that you examined eggs and graded them and inspected them that you took in each instance a sample of eggs similar to that in the box that is now in evidence, marked 59?

A. I don't remember.

Q. Was a part of your routine on those ships, those five ships, was that a part of your routine?

A. I don't recall.

Q. To put them in boxes? Do you remember whether Mr. Magee or Mr. Johnson ever took any eggs in your presence that you had candled and which you had designated on one of these

(Testimony of Lt. Col. Pearl Hugh Hand.)

sheets, these candling sheets that related to those ships, took eggs that were supposed to be representative of eggs that you had candled on that sheet? A. I don't remember.

Q. What? A. I don't remember.

Q. Do you know whether Captain Evans, your assistant, at any time took any exemplars of eggs which you had candled and noted your opinion and conclusion in respect to the quality and the weight of the eggs from any of those ships?

A. I don't know. [561]

Q. Have you in the last few days and since you were called as a witness in this case ever seen any box of eggs which purported to be a sample of eggs taken off any ship where you had participated in any way with the inspection of eggs or the grading of eggs?

A. None other than this box.

Q. Colonel, there is a paper here that relates to the USS. Coulter. Were you ever on the Coulter? A. Yes.

Q. Do you recall when? A. No.

Q. Did you grade any eggs on the Coulter?

A. No.

Q. Did you see any eggs on the Coulter?

A. Yes.

Q. Do you recall why you did not grade them?

A. Yes.

Q. Pardon me? A. Yes, I recall.

Q. Do you remember the date that you were there? A. No.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. Did you make a memorandum of anything you did on the USS. Coulter? A. Yes.

Q. Is this the memorandum that you made, Exhibit 69 for Identification? A. Yes.

Q. Is it entirely in your handwriting?

A. Yes, it is.

Q. Is it the only memorandum you made on any activity that you participated in on the USS. Coulter? A. As far as I recall, yes.

Q. Have you in preparation for your testimony in this case ever seen any document that purported to be an additional memorandum of any activity in which you engaged on the USS. Coulter? A. Not that I recall. [562]

Q. Now, Colonel, up on the top there is a date, 5/8/44. What does that represent?

A. The date that this document was prepared.

Q. Are you certain that the date 5/8/44 is the date on which you wrote that paper?

A. As near as I can recollect, yes.

Q. Now, then, you saw certain eggs there, is that right? A. Yes.

Q. Whose eggs did they purport to be? I withdraw that. Do you remember the incident on the William Coulter without the aid of that document? If you did not have that document can you give us any information or any memory of what happened on the USS. Coulter on May 8, 1944?

A. No.

Q. Whose eggs were involved?

A. I do not recall.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. How many cases were involved?

A. I do not remember.

Q. What?

A. I do not recall how many cases.

Q. Well, you wrote it down, didn't you?

A. 40 cases, it says here.

Q. 40 cases were involved? A. Yes.

Q. Does that help you refresh your recollection of the incident? A. No.

Q. There is no question, however, that you saw 40 cases of eggs on the William Coulter?

A. Yes, first-processed Medium.

Q. F. P. Medium, Grade AA? A. Yes.

Q. That is what you saw? A. Yes.

Q. Did you candle any of them? A. No.

Q. Now, there are some figures on the left-hand side, in the [563] lefthand column, one might say, from 1 to 12, inclusive, and each one is circled. What do those figures represent?

A. Individual cases weighed.

Q. Individual cases? A. Yes.

Q. And were those cases weighed?

A. Yes.

Q. By you?

A. I assisted in weighing them.

Q. Who did the weighing?

A. Mr. Dallas Johnson, Special Agent.

Q. Sitting here in court? A. Yes.

Q. What kind of scale?

A. I don't remember.

Q. An inspected scale, a ship scale?

(Testimony of Lt. Col. Pearl Hugh Hand.)

A. It was a special scale.

Q. A what?

A. It is a scale that he had. I do not remember the type of scale.

Q. Where did the weighing take place?

A. In the passageway adjacent to the cooler door.

Q. And you saw it all and you recorded it, is that correct? A. Yes.

Q. Were the cases nailed up?

A. When I first saw them?

Q. Yes. A. Yes.

Q. Did they remain nailed up during the entire period?

A. I do not remember whether they did or not.

Q. When the eggs were placed on the scale by Mr. Johnson what was your participation in this weighing transaction?

A. I checked the weights that the scale registered and made a notation on this sheet of paper.

Q. Did Mr. Johnson make notes at the same time? A. I do not know. [564]

Q. Now, these are the notes, however, that you made? A. Yes.

Q. None of the cases were graded or inspected, is that right? A. Not by me.

Q. Were they by anybody at that time?

A. Yes, by Major Evans, if I recall.

Q. At that time? A. Yes.

Q. In your presence? A. No.

Q. No?

(Testimony of Lt. Col. Pearl Hugh Hand.)

A. I was on the boat but I was not there while it graded the eggs.

Q. Now, the first case weighed, weighed how much? A. 45.5.

Q. 45.5? A. Gross.

Q. Does that mean 45.5 one-hundreds of a pound of five-sixteenths of a pound? Which does it mean?

A. Eight-sixteenths of a pound, one-half.

Q. The next figure is 45.9. What does that mean? Nine-tenths of 16 ounces? A. Yes, 9 ounces.

Q. How do you weigh 9 ounces on that scale, Colonel.

A. I do not recall the exact marking on the scale.

Q. Where did you get the figures 45.5, 45.9, 44.4, 46.8, and 49.7? Where did you get those figures?

A. On the scale.

Q. Right on the scale? A. Yes.

Q. In other words, the scale measured in 70 one-hundredths measure?

A. I do not remember exactly.

Q. Did you ever see a scale, Colonel, that weighed 40 or 50 pounds that did not weigh ounces and fractions of ounces? [565]

A. Yes, I have.

Q. And that was one of them, wasn't it?

A. No, it was not.

Q. How did this scale weigh in ounces or in decimal point hundredths of ounces?

A. I do not recall exactly how it weighed.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. Was it an American scale or a foreign make?

A. I do not remember. I was not in charge of the scale.

Q. You were examining the chart that shows the weight, weren't you? A. Yes.

Q. On Case No. 1 you have written down there "No stamp." What does not mean?

A. It was not stamped by the U. S. Department of Agriculture.

Q. In other words, "No stamp" means there was no Department of Agriculture stamp on it, is that correct? A. Yes.

Q. Was there a Veterinary Corps stamp on it?

A. No.

Q. Was it a new case?

A. I do not remember.

Q. Was it a Nye & Nissen case?

A. I do not remember whether it was or not.

Q. Then you put "P. W." What does not stand for? A. Pee-wee.

Q. And then you have the figure "10" and a little mark over it. What does that stand for?

A. It is the figure 1.

Q. What?

A. Just the figure 1 with a small zero indicating a period.

Q. What did you first write on that paper, Colonel?

A. The number of the case, No. 1.

Q. What was first written before the figure No. 1 was written? [566]

(Testimony of Lt. Col. Pearl Hugh Hand.)

A. Which part are you pertaining to now?

The Court: That question assumes a fact not in evidence, Counsel.

Mr. Faulkner: I just asked him to examine it.

The Court: Whether he examined it or not, develop the facts.

Mr. Faulkner: Q. Is that all you have written? In other words, on the first line where it says "No. 1," Cases, No. 1, "No stamp P. W.," after the letters "P. W." is the only thing written on that paper the figure 1?

A. 1 with a cross through it, with an "X" through it.

Q. What does the "X" mean?

A. I don't remember. I assume it was deleted at the time.

Q. You assume what?

A. I assume that the number 1 was deleted at the time. It has been two years, I do not remember exactly what it means.

Q. Then whatever it was, it was crossed out. When was it crossed out? Whatever you wrote, and regardless of how many times you wrote on that line, ultimately it was crossed out, wasn't it?

A. Yes.

Q. When was that done?

A. I do not remember exactly when it was done.

Q. Now, on the second line where you have 45.5 you have ditto marks under "No. stamp," have you not? A. Yes.

Q. And you have "P. W.," have you not?

(Testimony of Lt. Col. Pearl Hugi[illegible] Baird.)

A. Yes.

Q. And then you had "20," did you not? You first wrote 20; did [567] you not?

A. Where is that?

Q. I am using a paper that Mr. Gagan[illegible] repeated. Right there you wrote "20."

A. No, I first wrote "2."

Q. And then "2X"—is that an "X" also?

A. No, it is just a mark through; that is just merely a matter of script to identify different lots and several headings, two—with a small zero under it. It could be 2B or 2C. It is a mannerism of mine in writing. I was trained that way in college.

Q. It also could be ounces, couldn't it?

A. No, it could not.

Q. But it has the appearance of 20 ounces, has it not? A. No, it has not.

Q. It has the appearance of 20 with a mark over the "0", has it not? A. No.

Q. In any event, whatever you wrote there never at any time represented 20 ounces, did it, Colonel?

A. No, it did not.

Q. And then the "two" was crossed out and a one was run through it, isn't that correct?

A. The one in the place of an "X," yes.

Q. Isn't the one right through the two?

A. Yes.

Q. Why did you run the figure one through the figure two? A. To delete it.

Q. Why did you delete it?

A. I don't remember.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. Now, the next one. You have a line that says "Half fillers"—and whatever that is; that is like a figure "8" for an "and." Is that right, fillers and flats? A. That is correct. [568] one-half case fillers and flats.

Q. 18.9. What does 18.9 represent on that, Colonel?

A. Where are you referring to now, please?

Q. Right there (indicating)?

A. That is the weight of the fillers and the flats and the eggs.

Q. That is the weight? A. Yes.

Q. Did you weigh the fillers, flats and eggs?

A. Yes.

Q. And you weighed them on a scale that measured—that would be 18.9 what? 18.9 pounds?

A. I assume so, yes.

Q. You merely assume so, is that it?

A. Yes.

Q. Was that case stamped?

A. No, it was not.

Q. You have not put any ditto marks under "No stamp," have you?

A. I do not see any, no.

Q. Would that indicate that that was a stamped case?

A. I believe I was in error. It was, yes, according to this.

Q. Now, you have "P. W." with the figure "30" after it, have no not? A. No.

Q. What have you got there?

(Testimony of Lt.-Col. Pearl Hugh Hand.)

A. The number 3.

Q. What comes after three?

A. A dash and a small zero under the——

Q. A small zero?

A. Indicating a period, yes.

The Court: Q. What is that? What does it signify?

A. Just merely a form of indicating numbers, identifying them from the circle. I could put there an A or a B, a 1C, or anything—Capital A, Capital B, a small "a," a small "b." [569]

Mr. Faulkner: Q. Whatever you wrote and whatever it stands for, marks were made to delete it, is that correct? A. Yes.

Q. When was that mark made?

A. I do not recall just when it was made.

Q. This item "O. S. No. 1"—isn't that "Our Sample No. 1, O. S."?

A. Where are you referring to?

Q. On the first line where it says, "No stamp."

A. That is C. S.?

Q. C. S.? What does that mean?

A. Case No. 1.

Q. Do you know the weight of that case?

A. Yes. It is 45.5. It appears right under the case.

Q. Then you have "Half-Fillers and Slats 18.9." That all relates to Case No. 1, doesn't it?

A. Yes.

Q. Now, what does the figure between 18.9 and

(Testimony of Lt.-Col. Pearl Hugh Hand.)

45.5 represent? What is the relation between 18.9 and 45.5 in weighing Case No. 1?

A. 45.5 is a gross weight. 18.9 is one-half fillers and flats containing eggs weighed separately each case.

Q. Would that mean that they would weigh 38 pounds? If you filled both sides they weigh 37.8 pounds?

A. Yes, subtract—no, that would be including the fillers and flats, yes, three and a half pounds for them, yes.

Q. In other words, you weighed half the eggs, is that correct? A. Yes.

Q. And half of the case was 18.9?

A. Including the fillers and flats. [570].

Q. Including the fillers and flats, and the other half presumably weighed the same, is that right?

A. Yes.

Q. So the total weight would be 37.8, am I correct? A. Yes.

Q. How much do the fillers and flats weigh, Colonel? A. In a case 3½ pounds.

Q. In a case? A. Yes.

Q. How much do they weigh?

A. 3½ pounds.

Q. So that the eggs weighed 34½ pounds, didn't they? A. Yes.

Q. Now, a case of eggs weighing 34½ pounds would qualify under the Army and under the Department of Agriculture as Small eggs, wouldn't it? A. Yes.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. And you labelled them Pee-wees, didn't you? Didn't you, Colonel? Yes or no? A. No.

Q. Isn't it a fact that the first case you weighed on the William Coulter, according to the paper you hold in your hand, the gross weight was 45.5. You then took the case out and reached a figure of 18 pounds and nine-tenths of a pound average half-fillers and flats. You add those two together and they are 37.8 pounds. The fillers and flats in a case are 3½ pounds, and 3½ from 37.8 is 34.3, which makes them Small eggs, doesn't it? A. Yes.

Q. But you wrote down in your own handwriting "No stamp, Pee-wees." Didn't you? Isn't that what you did?

A. To identify the case, yes.

Q. You classified those eggs as Pee-wee eggs, didn't you? A. No.

Q. Why did you write "P. W.," representing Pee-wees?

A. I do not remember correctly. The label might have borne a "P." I do not recall the case.

Q. The next case of eggs, No. 2, had a gross weight of 45.9, isn't that correct?

A. Yes.

Q. And that would be .4 of a pound higher in gross weight than the Case No. 1, isn't that right?

A. Yes.

Q. And again you marked the case Pee-wees on your memorandum, didn't you?

A. No, this is not an official grading certificate

(Testimony of Lt. Col. Pearl Hugh Hand.)

of this lot of eggs. It is merely a memorandum for identification of grades and lots.

Q. You have gone through quite a few experiences with the Department of Justice by May 8. You had gone through April 24, April 25, April 26 and May 3. Now, on May 8 after you had classified all these eggs on your sheets as Pee-wees, you were actually engaged in weighing eggs and you still classify eggs weighing more than 34 pounds a case as Pee-wees, didn't you? A. No, I did not.

Mr. Pratt: I object, if the Court please. He has already said he had nothing to do with the grading of eggs on that occasion. The only functions that he performed were to write on a piece of paper the weights that somebody else determined.

Mr. Faulkner: Your Honor, Pee-wees have nothing to do with the grade of the eggs. That was the size. That was what they were on the William Coulter for, to determine the size, and he [252] characterizes eggs that call for, under the Department of Agriculture standards, the classification of Small eggs, in his own handwriting, he characterizes them as Pee-wees. That is the record.

The Court: Q. So there is no question about this document we are talking about, what is this?

A. It is merely a work sheet of weights taken.

Q. Have you a distinct recollection now of that work sheet, where, and under what circumstances you prepared that work sheet?

A. It was not official at the time. It was just in connection with the grading of the eggs.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. Just tell the Jury in your own way what this is, where it was prepared, and all about it.

A. This is merely a work sheet prepared on the William Coulter on 5/8/44, of which out of 40 cases of fresh processed Medium AA there were 12 cases weighed on the scale and the weights recorded.

Q. Do you remember anything else about it?

A. No, I do not.

The Court: Proceed

The Witness: It is not an official grading effort, your Honor.

Mr. Faulkner: Q. Now, Colonel, there isn't any question, however, that the letters "P. W." represent Pee-wee, is there?

A. I wouldn't state definitely that they were Pee-wee, no.

Q. What else could it represent, Colonel, having in mind that you wrote it on the William Coulter on the 8th day of May in an [573] investigation with a Department of Justice agent?

A. I said awhile ago it might have been stamped "Pee-wee" for identification of the case. I do not remember whether it was or not.

Q. You wrote before that, Colonel, "No stamp."

A. Meaning the U. S. Department of Agriculture stamp.

The Court: I think now it is time for adjournment. The jurors may be excused. Return at 10:00 o'clock tomorrow morning. Keep in mind the admonition of the Court. The jurors may be excused.

(An adjournment was thereupon taken until tomorrow, Thursday, at 10:00 o'clock a.m.)

Thursday, January 25, 1946, 10:00 o'clock a.m.

The Clerk: United States v. Nye & Nissen.

Mr. Faulkner: Ready.

The Court: Call the roll.

(The roll of the jurors was called, all answered present.)

LT. COL. PEARL HUGH HAND;

recalled;

Cross-Examination (resumed)

Mr. Faulkner: Q. Colonel, on the occasions that you were on the vessels White, Pillar, Muir, Coulter and Josiah Royce, did you examine any other merchandise that was supposed to have come from Nye & Nissen on any of the occasions when you inspected eggs? A. No, I did not.

Q. You neither examined butter or cheese?

A. No.

Q. Did you weigh any butter or cheese on any of those occasions? A. No.

Q. Was any weighed in your presence?

A. I don't recall whether it was or not.

Q. Colonel, in the course of your examination last week, on Friday, requests were made of you to bring certain rules and regulations and standards of butter, cheese and eggs. When you came onto the stand on Tuesday morning, I think it was, the

(Testimony of Lt. Col. Pearl Hugh Hand.)

only record you brought in response to the conversations and the directions of the court was U. S. Exhibit 52, CE 271, [575] is that correct?

A. No, I had the specifications for cheese with me. I understood that cheese and eggs were wanted.

Q. Particularly cheese and butter and eggs?

A. I had the cheese specification with me, but it was not asked for.

Q. You had it on Tuesday morning?

A. Yes. It is upstairs.

Q. It is upstairs? A. Yes.

The Court: Is it available?

Mr Faulkner: Is there anyone who could send for it?

Mr. Hippeli: Yes. Where is it, in your briefcase?

The Witness: Yes.

Mr. Hippeli: Is that up in 418?

Mr. Faulkner: Q. Have you the butter specification?

A. No, I didn't understand the butter specification was wanted.

Q. Did you make a search for the regulations that were similar in type to those dated in April, 1931, to get the regulations that obtained in 1943 and 1944? A. Yes.

Q. You could not find any?

A. I believe they are there, also. I don't recall whether they were brought down or not.

Mr. Hippeli: I have a copy of those. I don't

(Testimony of Lt. Col. Pearl Hugh Hand.)

know where I got it. If that will assist you I will be glad to give it to you.

Mr. Faulkner: Q. Colonel, when you identified this CE 27[illegible] on Tuesday, here, isn't it a fact that you stated that was the only regulation that you could find? "Yes" or "No," please.

A. No. [576]

Q. You did not say that?

A. I said there were amendments to it.

Q. Yes. I said you testified that was the only one you could find. A. No, I did not.

Q. You did not say that. All right. How many amendments are there?

A. I don't recall just how many. There are numerous amendments.

Q. You testified on your direct examination to a conversation with someone about the sealing of the wire strapping on the cases of eggs put out at the Petaluma plant of Nye & Nissen. Do you remember that testimony? A. I believe so, yes.

Q. Who was the conversation with?

A. Mr. Langworthy.

Q. Did you have any conversation with Mr. Moncharsh on the subject? A. No.

Q. Did you have any conversation with Mr. Goddard on the subject? A. No.

Q. Who was present at the time you talked to Mr. Langworthy?

A. One of my inspectors. I believe it was Sergeant Steffenhagen. I am not sure.

(Testimony of Lt. Col. Pearl Hugh Hand.)

Q. What did you say to Mr. Langworthy at that time? A. Nothing.

Q. What did he say to you?

A. He said he felt it was an undue hardship to have to seal the cases at the Nye & Nissen plant.

Q. He refused to seal them, didn't he?

A. No, he did not. [577]

Q. Isn't this the conversation: The Army had requested the employees of Nye & Nissen to seal the cases and Mr. Langworthy told you that under the contract he had no obligation to seal the cases, and that it was a hardship for their men who were packing eggs to be called upon to do the work of the Army and if you wanted to seal the cases to seal them yourself? A. The Army——

Q. Isn't that what—— A. No.

Q. Isn't it a fact from then on, after that conversation, your Army men sealed all the cases?

A. The Army men always sealed the case.

Q. Isn't it a fact before the conversation you were expecting the Nye & Nissen men to seal the cases for you?

A. No. That was the only plant we were sealing cases at.

Q. Isn't it a fact that in that plant that the Nye & Nissen men were requested by you to seal the cases for the Army? A. Absolutely not.

Q. You testified that over a period of time you were in and out of the plant of Nye & Nissen in San Francisco inspecting butter, eggs and cheese?

A. In a supervisory capacity, yes.